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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,170	09/18/2003	Jaime Vargas	144	6321

33109 7590 07/31/2006

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EXAMINER

WOO, JULIAN W

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,170

Applicant(s)

VARGAS ET AL.

Examiner

Julian W. Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/16/04, 4/29/05</u> . | 6) <input type="checkbox"/> Other: _____ |

3. continued...10/07/05, 01/23/06 and 05/12/06

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 14, 15, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Yencho et al. (6,461,320). Yencho et al. disclose, at least in figures 15-20 and 23, a method of forming an anastomosis, where the method includes providing a unitary, partially tubular anastomosis device (110), connecting or everting an end of a graft vessel (125) around the anastomosis device, delivering at least a portion of the device into a lumen of a target vessel (127) through an opening in the wall of the target vessel, manipulating, radially expanding, or plastically deforming at least a portion of the anastomosis device with an expander (131) to form a first flange (121) positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel.

3. Claims 1, 4-11, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bolduc et al. (6,193,734). Bolduc et al. disclose, at least in figures 1-15 and in col. 6, lines 54-58, a method of forming an anastomosis, where the method includes providing a stainless steel anastomosis device (e.g., 14), connecting an end of a graft vessel (T1)

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to the anastomosis device, delivering at least a portion of the device into a lumen of a target vessel (T2) through an opening in the wall of the target vessel, manipulating, translating, or proximally moving an expander (16) linearly relative to the device in order to form a first flange (30) positioned in the lumen of the target vessel and spaced apart from the wall of the target, providing and connecting a separable holder (16 or 18) to the device, and moving the holder (16 or 18), where the device includes at least one tab (e.g., 32).

4. Claims 1, 5, 12, 13, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaster et al (5,234,447). Kaster et al. disclose, at least in figures 1, 10, and 14-19, a method of forming an anastomosis, where the method includes providing a anastomosis device (12), connecting or penetrating an end of a graft vessel (51) with at least one element of the anastomosis device, delivering at least a portion of the device into a lumen of a target vessel (53) through an opening in the wall of the target vessel, manipulating the device in order to form a first flange (43) positioned in the lumen of the target vessel and spaced apart from the wall of the target, where the first flange is moved into contact with the wall of the target vessel, manipulating the device to form a second flange (44) in contact with the wall of the target vessel, and where the first flange includes a plurality of elements (43) spaced apart one another at their distal ends and arranged substantially radially symmetrically about the longitudinal axis of the anastomosis device, where manipulating includes moving at least a portion of at least one element away from at least a portion of a different element.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner

July 22, 2006